



"Promoting consumer
choices and innovation
through wire-based
facilities-based networks."

EX PARTE OR LATE FILED
**BRINGING FULLY
COMPETITIVE BROADBAND
TO AMERICA¹**

FILED ELECTRONICALLY

FILED/ACCEPTED August 16, 2007

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

AUG 17 2007

Federal Communications Commission
Office of the Secretary

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Re: *Ex Parte* Presentations in MB Docket No. 07-29, MB Docket No. 05-311, and
CSR-7108

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, The Broadband Service Providers Association (BSPA) submits this notice of an *ex parte* presentation in the above-captioned proceedings.

On August 15, 2007 Felix Boccucci, V.P. Business Development, Knology; Richard Ramlall, SVP, Strategic & External Affairs, RCN and I had a meetings on behalf of the Broadband Service Providers Association (BSPA) with Rick Chessen and Bruce Gottlieb, Legal Advisors to Commissioner Copps; Cristina Pauze, Legal Advisor to Commissioner McDowell; and Michelle Carey, Legal Advisor to Chairman Martin to discuss the Commission's rulemaking on the further extension of the prohibition against exclusive contracts as part of Section 628, cable franchise-related issues, and CSR-7108. A copy of the attached agenda and talking points was provided at the meetings.

At these meetings we discussed the policy recommendations made by the BSPA and its members as part of comments filed in MB docket No. 07-29 and application of the new franchise rules adopted by the Commission as part of MB Docket No. 05-311 as they might apply to existing competitive franchises as recommended in the Further Notice for Proposed Rulemaking for franchise reform.

In addition to the policy recommendations that were part of written comments submitted to the Commission we discussed the current franchise negotiations between Knology and the City of Montgomery Alabama.

As a further matter we offered support for The America Channel (TAC) and its policy efforts related to the Petition of Comcast for Declaratory Ruling CSR-7108, referring to TAC sports programming carriage as an example of "must have" programming, that RCN and Hiawatha Broadband have agreed to carry. In addition, we noted that the America Channel's *SportsLife* initiative, combined with its flexible and innovative business model, will enable us to customize America Channel for our local communities, including opportunities for co-branding,

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¹ The current members of BSPA, all of which are last-mile, facilities-based providers, are: Everest Connections, Hiawatha Broadband, Knology, PrairieWave Communications, RCN, and SureWest Communications.

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cc: Cristina Pauze, Michelle Carey, Bruce Gottlieb, Rick Chessen

Broadband Service Providers Association (BSPA)
FCC Meeting Agenda, August 15, 2007

BSPA Attendees: Felix Boccucci, VP Business Development, Knology
Richard Ramlall, SVP, Strategic and External Affairs, RCN
John Goodman, Executive Director, BSPA

1. Introduction

2. Program Access

- Assured access to programming is essential to competition. Any diminished access to content will harm both current and desired competition.
- The current rules have been historically essential and have caused no harm.
- We recommend extension of the current rules with strengthened enforcement procedures.
- A minimum of 5 years.
- Better discovery with appropriate assured confidentiality.
- 120 day complaint proceedings.
- A standstill for pre-existing carriage during complaint proceedings.
- Use of third party binding arbitration to resolve pricing disputes.
 - The Adelphia rules should be used as guidelines.
 - AAA provides the resources with the best expertise.
 - The goal is to foster commercial settlement. An internal FCC resource would be more prone to politics and only have limited use.
 - Third party binding arbitration costs should be born by the effected parties and provide appropriate incentive for commercial resolution.
- We request FCC support to close the Terrestrial Loophole.
- Access to unaffiliated sports programming is also essential to competition.

3. Franchising

- We fully support the application of the new FCC Franchising Rules to competitive franchise renewals.
- New franchising rules should be applicable when an existing competitive franchise is up for renewal, if a new competitor enters the market, or if the other competitive franchise is renewed under these new FCC rules.
- Implementation of the new FCC rules has had material positive impact on current franchise renewal negotiations.